IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.2751 of 2009
and M.P.No.1 of 2009

V.N.Devadoss ..Appellant

-vs-

1.The Inspector General of Registration,
No.120, Santhome High Road,
Chennai 600 028.

2.The District Revenue Officer (Stamps),
Collector Office,
Rajaji Salai,
Chennai-600 001.

3.The Sub-Registrar,
Konnur,
Chennai 600 049. ..Respondents

Appeal against the order, dated 12.02.2004, passed in proceedings N.No.15635/N-1/2003, on the file of the Chief Controlling Revenue Authority and Inspecor General of Registration, Chennai confirming the order of the District Revenue Officer (Stamps) in NKC No.357/2002/A4, dated 27.02.2003.

For appellant : Ms.C.Kasirajan

For respondents : Mr.Venkadesh Kumar,
Govt.Advocate (CS)



J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the order dated 12.02.2004 made in proceedings N.No.15635/N-1/2003 passed by the 1st respondent, the Inspector General of Registration, Chennai.

2. The appellant presented the sale deed before the third respondent for registration. The third respondent, under Section 47-A(1) of the Indian Stamp Act, 1899, had referred the documents for verification of market value to the second respondent/the District Revenue Officer (Stamps), Chennai.

The second respondent issued notice in Form No.I as per Rule 47-A of the Tamil Nadu Stamp (Prevention of undervaluation of Instruments) Rules, 1968 on 1.11.2002 and thereafter issued Form No.II notice as per Rule on 27.02.2003 and on the same day, the final order was passed fixing a sum of Rs.355/- per sq.ft. Aggrieved by the order passed by the second respondent, the appellant preferred an appeal before the first respondent. The first respondent, on the basis of the report submitted by the Deputy Inspector General of Registration and the second respondent, passed the impugned order dated 12.02.2004 confirming the order passed by the second respondent. Challenging the order dated 12.02.2004, the present civil miscellaneous appeal has been filed.

3.The learned counsel for the appellant submitted that the second respondent has not passed orders within a period of three months from the date of receipt of Form No.I notice. Further, the first respondent has not given notice of inspection to the appellant before deciding the appeal, thereby, violated the statutory provisions of the Tamil Nadu Stamps (Prevention of undervaluation of Instruments) Rules, 1968 and the principles of natural justice.

4.The learned Government Advocate (Civil Side) submitted that the order passed by the first respondent is valid and sustainable in law, as it is based on the relevant materials and therefore, the impugned order shall not be interfered with.

5.This Court considered the rival submissions made by the learned counsel for both sides.

6.The order passed by the second respondent is contrary to Rule 7 of Tamil Nadu Stamps (Prevention of Undervaluation of Instruments) Rules,1968, for short 'Rules'. The second respondent should have passed orders within a period of three months from the date of issuance of the first notice. In the instant case, the first notice was issued on 01.11.2002 and the orders ought to have been passed on or before 01.02.2003, but, the order came to be passed only on 27.02.2003, beyond the statutory period of three months prescribed under Rule 7 of the Tamil Nadu Stamps (Prevention of Undervaluation of Instruments) Rules,1968.

7.From the perusal of the order, it is noted that the first respondent has failed to comply with the mandatory requirement of Rule 11-A of the Rules. As mandated in the said Rules, he ought to have conducted the inspection of the property after notice to the parties concerned. But has delegated the task to his subordinate. In such circumstances, this Court in C.M.A.No.2820 of 2012 dated 05.06.2015, has held that the authority could not delegate the powers. Paragraph No.17 of the said judgment reads as follows:

"The Authority conferred with certain functions under a statute has to carry out the same on its own such function and cannot delegate the same to another in the absence any contemplation for such delegation under the Act. In the present case, under rule 4 (3) (c) and rule 11-A of the rules, 2nd respondent-Collector and the first respondent Inspector General of Registration respectively, have to inspect the property and there is no enabling provision under the rules or under the Act to delegate such power. Therefore, inspections by other officers at the behest of the respondents vitiate the entire proceedings.

8.Even assuming that the inspection can be done by some other officer, the inspection report was also not furnished to the appellant, before deciding the matter. Non-furnishing of the inspection report before deciding the appeal will amount to violation of principles of natural justice. Therefore, I am of the considered view that the orders passed by the respondents stand vitiated for violation of Rules 7 and 11-A of the Rules. In such circumstances, the impugned order dated 12.02.2004 passed in proceedings No.15635/N-1/2003 is set aside.

9.At this juncture, the learned counsel for the appellant submitted that as per the direction given by this Court in W.P.M.P.No.19794 of 2004 in W.P.Nos.16732 and 16733 of 2004, the appellant executed a bank guarantee in favour of Deputy Registrar, Chennai. In view of the judgment passed by this Court in the present civil miscellaneous appeal, it is open to the appellant to encash the bank guarantee, which was given for this purpose.

In the result, this Civil Miscellaneous Appeal is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.



Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

cla

To

1.The Inspector General of Registration,
No.120, Santhome High Road,
Chennai 600 028.

2.The District Revenue Officer (Stamps),
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Chennai-600 001.

3.The Sub-Registrar,
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Chennai 600 049.

+ 1 cc to MR. C.Kasi Rajan, Advocate Sr.7803

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PA(CO)
EU(10/04/2018)